

IN RE: PETITION FOR VARIANCE
SE/S Proctor Lane, 800' SW of
Old Harford Road
(2621-A Proctor Lane)
9th Election District
6th Councilmanic District
Ronald P. Holden, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 93-440-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Ronald P. and A. Ruth Holden. The Petitioners request relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5.5 feet in lieu of the minimum required 10 feet and a front yard setback of 23.2 feet in lieu of the minimum required 25 feet for an existing dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition was Ruth Holden, property owner. There were no Protestants.

Testimony indicated that the subject property, known as 2621-A Proctor Lane, consists of .228 acres, more or less, zoned D.R. 5.5 and is improved with a two-story single family dwelling. Said property was part of a minor subdivision of 2621 Proctor Lane, which was approved in approximately September, 1990. The property at 2621 Proctor Lane was the subject of prior zoning Case No. 93-338-A in which the owners requested a variance to side yard setback requirements for an existing dwelling as a result of a zoning violation notice they received. Testimony in that case revealed that when 2621 Proctor Lane was subdivided into three lots, the three lots were proposed for development with 40-foot wide dwellings. Thomas Phelps, a Registered Property Line Surveyor who appeared and testified in that

case, stated that he staked off the area on each lot where the dwellings were to be constructed in accordance with B.C.Z.R. requirements. However, in Case No. 93-338-A, the builder constructed the dwelling outside the building envelope. Testimony in the instant case was that the builder constructed a larger home than that originally planned and that the house was constructed with a two-car garage instead of a one-car garage. The Petitioners were not aware of the problem until the adjoining property owners filed for a variance. The Petitioners then filed the instant Petition in order to bring their property into compliance with the zoning regulations. It should be noted that the subject dwelling has existed on the property for over two years.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

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After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of July, 1993 that the Petition for Variance requesting relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5.5 feet in lieu of the minimum required 10 feet and a front yard setback of 23.2 feet in lieu of the minimum required 25 feet for an existing dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

July 14, 1993

(410) 887-4386

Mr. & Mrs. Ronald P. Holden
2621-A Proctor Lane
Baltimore, Maryland 21234

RE: PETITION FOR VARIANCE
SE/S Proctor Lane, 800' SW of Old Harford Road
(2621-A Proctor Lane)
9th Election District - 6th Councilmanic District
Ronald P. Holden, et ux - Petitioners
Case No. 93-440-A

Dear Mr. & Mrs. Holden:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Thomas E. Phelps
945 Barron Avenue, Baltimore, Md. 21221

People's Counsel

File



Petition for Variance

93-440-A
to the Zoning Commissioner of Baltimore County

for the property located at 2621A Proctor Ln

which is presently zoned DR5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1B02.3.C.1 to change the side yard setback from 10' to 5.5' and the front setback from 25' to 23.2'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) When the contractor built the house he enlarged the width and set it skewed on the lot.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee

Type or Print Name

Signature

Address

City

State

Zipcode

Attorney for Petitioner

Type or Print Name

Signature

Address

Phone No.

City

State

Zipcode

(We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s)

RONALD P. HOLDEN

Type or Print Name

Ronald Paul Holden

A. RUTH HOLDEN

Type or Print Name

A. Ruth Holden

H 882 2551

2621A Proctor Ln., W 665 0200

Balt.

City

State

Zipcode

Name, Address and phone number of representative to be contacted

Thomas E. Phelps

Name

Address

Phone No.

City

State

Zipcode

ESTIMATED LENGTH OF HEARING

minutes for Hearing

Next Two Months

REVIEWED BY: TMK

DATE: 6-1-93

Lot 3 Holden Property
Proctor Lane
9th Elect District
Baltimore County, Md.

93-440-A

Beginning at a point in the southwesterly line of the original tract acquired by Ronald P. Holden, Et Al, by deed recorded among the land records of Baltimore County, Maryland in Liber 8654 at folio 0033, said point being South 46° 25' 53" West 25.14 feet from the centerline of Proctor Lane, as now surveyed, thence departing said point of beginning and running with the said tract line as follows, viz:

- 1) South 74° 29' 41" East 68.14 feet to a point, thence with two new lines of division as follows, viz:
- 2) South 45° 48' 51" West 175.42 feet, and
- 3) North 68° 57' 07" West 63.93 feet to a point in the original southwesterly line of the tract, thence with said tract line the following, viz:
- 4) North 46° 25' 53" East 159.28 feet to the point and place of beginning. Containing 9,964 square feet, more or less.

Being a portion of the property acquired by Ronald P. Holden, Et Al, by a deed recorded among the land records of Baltimore County, Maryland in Liber 8654 at Folio 0033, also said lot is shown on a plat of subdivision attached hereto and made a part hereof.

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY 93-440-A
Towson, Maryland

District: 24 Date of Posting: 6/25/93
Posted for: Variance
Petitioner: Ronald P. Holden, H. Ruth Holden
Location of property: 2621 (SE) Proctor Lane, 800 SW of Old Harford Rd.
Location of Sign: Along Proctor Lane property, 200' from SE corner
Remarks: None
Posted by: TMK Date of return: 6/25/93
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 6/24, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/24, 1993

THE JEFFERSONIAN,

S. Zate Orlean
Publisher

receipt

Account: R-001-6150

Date: 6-11-93

Ronald P. Holden

2621 A Proctor Lane

8010 - Variance - \$50.00

4080 - Sign & Posting - 35.00

\$85.00

93-440-A

Please Make Checks Payable To: Baltimore County

\$85.00

Cashier Validation

CPS-008

